

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-01-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The MRI Spinal Canal on 4-7-04 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical in accordance with Medicare program reimbursement methodologies for dates of service after 4-7-04 per Commission Rule 134.202 (c); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to date of service 4-7-04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 14th day of December 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division
DA/da

Enclosure: IRO decision

December 9, 2004

DEBRA HEWITT
TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-05-0725-01

CLIENT TRACKING NUMBER: M5-05-0725-01/IRO 5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records Submitted from the State:

1. Notification of IRO Assignment dated 11/30/04, 1 page
2. Medical dispute resolution request/response form, undated, 2 pages
3. Table of disputed services for date of service 4/7/04, 1 page
4. Texas Workers' Compensation Commission letter dated 11/30/04, 1 page

Records Submitted from the Providers:

5. Carrier EOB for date of service 4/7/04, 1 page
6. Request for reconsideration letter dated 6/22/04, 2 pages
7. Request for reconsideration letter dated 5/11/04, 1 page
8. Lumbar spine MRI report dated 4/8/04, 1 page
9. Review narrative dated 5/5/04, 1 page
10. Review narrative dated 8/8/04, 1 page
11. Review narrative dated 5/5/04, 1 page
12. Review narrative dated 4/23/04, 1 page
13. Letter from Dr. Johnson dated 5/6/04, 1 page

14. Letter from Dr. Johnson, undated, 1 page
15. Physical examination dated 3/27/04, 2 pages
16. Office note dated 4/7/04, 1 page

Summary of Treatment/Case History:

The patient is a 36-year-old female who, on ____, bent down to pick up a 20 lb. bag of kitty litter within a small working space, when she experienced an acute onset of severe lower back and left posterior thigh and calf pain. She presented to a doctor of chiropractic who, following his case history, initial examination and brief clinical course of treatment, ordered a lumbar MRI to rule out acute disc herniation.

Questions for Review:

Item in dispute: MRI spinal canal - #72148-WP - for date of service 4/7/04. Denied for medical necessity with "U" code.

Explanation of Findings:

The lumbar MRI on 4/7/04 was medically necessary to treat this patient's injury.

Rationale: In this case, the carrier's own peer reviewer in his report dated 4/23/04 stated, "Based on the medical documentation submitted, completing the lumbar MRI at 12 days post injury is considered appropriate, is within the AHCPH Clinical Practice Guidelines and is considered medically necessary." However, a second peer review dated 5/5/04 *by the same reviewer* stated, "With clinical notes documenting normal reflexes in the lower extremities and no clinical red flags, the ordering and completing a lumbar MRI study at only 12 days post this non-traumatic low back injury claim is not considered medically necessary and is not within the recommendations of the AHCPH Clinical Practice Guidelines." It is perplexing why this reviewer changed his opinion in this case, yet cited the same reference in doing so. Furthermore, this same peer reviewer (along with another review by a separate doctor) referenced this injury as "non-traumatic," ostensibly suggesting that a heavy lifting incident to the spine and related soft tissues was not a traumatic event.

However, an actual review of the AHCPH Guideline (reference 1) referenced in this case states, "CT, MRI, myelography, or CT-myelography and/or consultation with an appropriate specialist is recommended when clinical findings strongly suggesting tumor, infection, fracture, or other space-occupying lesions of the spine" [emphasis added]. Based on the records reviewed, it was the professional opinion of the treating doctor that an acute disc herniation was manifest in the patient, according to the treating doctor's case history, his physical examination findings, and his overall clinical impression of the patient. Therefore, because a disc herniation falls within the definition of a space-occupying lesion, the suspected presence of this pathology met the requirements of the AHCPH Guidelines for ordering an MRI, and thus was medically necessary.

Conclusion/Decision to Certify:

The lumbar MRI on 4/7/04 was medically necessary to treat this patient's injury.

References Used in Support of Decision:

1. Rockville (MD): U.S. Department of Health and Human Services, Public Health Service, AHCPH; 1994 Dec. 160 (Clinical practice guideline; no. 14).

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRloA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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